Checking Out But Never Leaving: Women, Prison, and 'Community' in Colonial Australia Kat Armstrong & Vicki Chartrand

While there is a lower class, I am in it. While there is a criminal element, I am of it. While there is a soul in prison, I am not free. Eugene Victor Debs (1885 – 1926)

If prisons and punitive mechanisms are transformed ... it will be when those \who have a stake in that reality, all those people, have come into collision with each other and with themselves.

Foucault (1984, p. 236)

Abstract

In colonial Australia, a system of identification and regulation was streamed into the social body to ensure a particular ordering and management of the 'convict'. Although not necessarily tied to gender, it was administered in such a way that ensured women were attached to themselves as both women and criminals. Early characteristics of managing women within such a penal ethos are found in the assignment system and ticket-of-leave scheme that eventually merged to be established as a basic aspect of prison administration and a central component of prisoner 'correction' today. In linking such a practice to the prison through a notion of 'reform', ongoing forms of surveillance and management were made both necessary and normal aspects of life outside of prison, while undermining the importance of social, economic and political access and material resources for women.

Since the development of the prison as a penal modality, the system has been diversified, fragmented, and extended in a variety of ways. Although the prison is often considered as the central apparatus of control, regulation, and punishment, just beyond it there exists another domain; one that is situated between the prison and larger society and that problematizes prisoners outside the prison walls through particular vestiges of 'community' management and control. Despite an historical legacy of a general exclusion from social, political and economic practices and decisions, women caught within such penal schemes continue to be expected to adapt to and participate within 'normal' processes of work and life.

The development of prison release arrangements has ensured a continued existence and employment of particular 'corrective'1 and punitive measures for women and men outside of the prison. This continuum of care and control (Cohen, 1985) is organized to monitor and direct those released from prison into 'community'2 and to produce subjects who contribute to life and labour in particular ways - as 'productive' workers, 'law-abiding' citizens, 'caring mothers', 'pro-social' beings, and so on. Within this continuum, and central to the administration of punitive regimes³, there exists a system of identification; the deliberate detection and division of individuals to facilitate punitive and corrective processes. In this paper, we discuss this corrective legacy within its historical context in New South Wales (NSW), Australia and show that, through a system of identification and containment, these schemes continued to develop and promote women and colonial society in definitive ways and have been adapted to continue to do so. Through such an historical investigation, we reveal that what exists today in prison release is not a natural or necessary progression in penal, corrective, or rehabilitative practice, but an adaptive process initially established to develop colonial Australia. Given this, what exists today for women only continues to undermine political and economic access and ignore social and material barriers.

CONVICTED, CLASSIFIED AND CONTAINED

The transportation⁴ of convicts from Britain to Australia in the late 17th and early 18th centuries to address British overpopulation concerns was occurring at a time when, according to Foucault (1978, p. 136-137), knowledge was developed around concerns of the body as an individual site of control and as a political site invested in concerns over the health and well-being of the population. Within Australian penal practice, this saw the emergence of those arrangements that encouraged colonial health and development through convict labour and the containment and control of social order and disease. In addition to colonial development, state regulation of convicts also provided a means to maintain control and regulate a growing population. At the time, the gaol was reserved for those convicted of an offence while in the colony, with women housed in a section separate from the men. Earliest convict management was carried out in the form of state labour and service where release from penal obligation was granted through a ticket-of-leave system; a precursor to current practices such as parole that established early behavioural bonds between the individual and state administration. A ticketof-leave,⁵ which provided general information and a physical description of each convict, was granted for good and industrious conduct and 'freed' convicts from government servitude while maintaining regulatory controls throughout various aspects of their lives which included mandatory monthly round-ups or musters, remaining lodged in one area and attending divine worship each Sunday (Morony, 1974, p. 9-10).

For convict women, penal administration was primarily organized along lines of gender. Through an assignment system, women were distributed and dispersed throughout the colony into domestic service although they were often taken as sexual favour (Salt, 1984). Through gender segregation, various other categories for penal regulation emerged that emphasized women's civil, moral, and sexual conduct. For instance, women were scrutinized and regulated for sexual 'misconduct' insolence, absconding, drunkenness, foul language, and the like (Smith, 1988, p. 236). With this particular focus, the practices for convict women defending, supporting, or sustaining themselves were targeted for penal intervention and regulation. In addition to facilitating colonial development, this certain moral ordering largely limited and excluded the women's participation in public space. Osborne & Rose (1997) suggest that at this time, also linked to concerns of the body and social health, were concerns of death and disease. Health, cleanliness, and hygiene were considered necessary to promote colonial order, stability, and well-being and convict women were linked to notions of contamination (Damousi, 1997) and cast as disruptions to such an order. Dobash, Dobash and Gutteridge (1986) argue that there was a scientific development in Britain around this time that classified women prisoners as biologically perverse, sexually aberrant, emotionally disturbed and intellectually deficient. In NSW, the regulation of various sexual encounters, such as prostitution or sex with one's master was used to develop specific social and moral boundaries of cleanliness that promoted the containment and circulation of the women throughout the colony. Women were created as instruments of cleanliness and order and their management functioned as a form of public hygiene – for the social and the individual (Foucault, 1994, p. 184).

As convicts, women could be granted tickets-of-leave,⁶ but as women, access was tied to gender and loosely administered through either marriage

or the assignment system, both of which predominantly saw women localized to private domestic spaces. Through assignment and marriage, as promoted through the ticket-of-leave scheme, the dispersal of women's labour and child-bearing had stabilizing effects for the colony as it relieved the state of ongoing duty and colonial expense, while keeping women obligated to state rule, colonial development and growth. Through the use of incentive schemes for good behaviour while on assignment and the promotion of marriage through the granting of tickets, convict women could be distributed along lines of conduct that promoted a particular physical and moral health and well-being of the colony, while concerns around disease and moral disorder magnified a need for their containment and controlled circulation.

In 1840, when transportation ended in NSW,⁷ certain changes were taking effect that reflected a penal transformation that increasingly linked convicts to categories of crime and levels of harm, and that established the prison as a mechanism for punishment and increasingly as a place of 'treatment' or 'correction'. This shift also saw central management and unified administration as priorities for colonial order and organization, and greater emphasis was placed on reformatories and gaols for convict management. While marriage and the assignment of women promoted domestic development, it offered little in the way of the ongoing scrutiny and consistent monitoring of women. Also, because of the generally haphazard way women were assigned and the inability to regulate women who were not on assignment, reconsideration of its application was given and in 1821, the first women only Female Factory at Parramatta⁸ was established to receive women upon transportation.

[the] female factory became the means of regulating and controlling the use and disbursement of female convicts and of punishing the recalcitrant or criminal. It was destined to become workhouse and labour bureau, marriage bureau and regulator of morality, gaol and hospital, and at the same time, to relieve the financial burden and the administration of female convicts and their many children (Salt, 1984, p. 102).

The factory was reasoned as a necessity for the good order of women and the immediate containment of the spread of social disorder and disease. In this way, the prison offered a sort of eugenics or quarantining of certain physical, moral and intellectual capacities (Osborne & Rose, 1997) and privileged a controlled ordering and dispersal of the women's moral health, child-bearing and rearing, and labour.

Women were given a variety of titles to reflect their lack of social and moral health, and articulating a need for their containment such as 'incorrigible', 'unruly', 'disorderly', 'depraved' and 'damned'. This portrayal of convict women was evident in classification schemes developed within the Parramatta Factory that organized women along their 'potential' for release. Three classes for women were developed where 'third class' women were considered to be the most 'corrupt' and were refused assignment or marriage while having to work in menial labour. In contrast to third class categories, 'first class' women were designated as the most suitable and agreeable for assignment or marriage, while 'second class' women were in a 'transitional' stage between the two. The development of a consistent and coherent system for convict women also lent itself to more sophisticated identification and management strategies. For instance, women in the Parramatta Factory were dressed in all black until 1909 when identification systems expanded and women were sorted through dress and hair. First class women were organized with attire more suitable for 'civil life' outside the prison while third class women were made less socially suitable through their dress and a shaved head. This not only de-feminized women (Damousi, 1997) but also further removed them from a 'potential liberty' by visibly tying them to the penal apparatus. Tying classification to physical appearance reaffirms the visible identification and ordering of women and rationalizes and maintains systems of regularity, unity, order, stability, certainty and so on. The prison factory thus tied women to a unifying moral policing⁹ so as to prepare them for newly emerging colonial schemes and the prison was organized to accommodate such arrangements. The combining effects of the prison and colonial arrangements opened up mutually supporting possibilities for the regulation of convict women where a ticket-a-leave was a kind of arbitrator between the two.

The ticket-of leave scheme, coupled with assignment and marriage, established early programs to differentiate, categorize and manage women in the NSW colony and further tied existing discourses on gender to social health, cleanliness and morality. A women's only prison factory further embedded the social and moral ordering of women in institutional practice with an arrangement for eliminating those who could not be dispersed throughout the colony. These arrangements also established ongoing practices of various forms of penal identification so that women were never completely removed from convict or colonial management and administration, and the ticket system ensured that a recall to penal confinement and control could effectively occur at any time. Where prison classification set the foundation and tone for release schemes to come, it was however the management of women outside the prison that established the ground in which release schemes are now based.

THE STORY OF REFORM

Along with an increased use of the prison, there was also a shift in emphasis placed on attaining 'freedom from' the prison rather than a particular freedom through attainment of material reward or gain through marriage or assignment. This shift nonetheless maintained the dual function of alleviating the state from economic responsibility, while promoting a privileging system that awarded 'desirable' or 'agreeable' social conduct. In 1883, the release-on-license scheme was developed to replace the ticket-of-leave, and granted to 'well-conducted' prisoners 'conditional' release through a remission of sentence (Chan, 1990, p. 402). Identification of the various aspects of the prisoners' lives also remained a central component of penal processes and management and women continued to be managed through gender as an ongoing category of thought for detection, classification, normalization, revocation, and the like.

Where the prison initially received women, organized women upon transportation and in and out of assignment and offered skills for the 'promising' few who could secure marriage or employment, it eventually became a central and necessary aspect of reform prior to release. Prison release was developing in a way that sought to maintain a certain continuity between prison reform efforts and release practices, as well as to replace state care and support for prisoners once outside. From this, a form of 'after care' was developed to offer a type of support for prisoners released from prison. "The Prisoner's Aid Association of NSW" was thus established as a formal body of after care and, although promoted as an independent body from the state, was aligned with penal thought and carried out those aspects of life and labour previously overseen and provided by the state such as finding employment, providing food, shelter, tools, et cetera. After care was devised to address the limits of the prison and to maintain a continuity of its practice to 'complement' or enhance reform measures instituted in the prison. After care, held as the key between prison and 'free society', also helped further build a knowledge base of prisoners while on release and outside of the prison domain, further informing 'corrective' and penal discourse. As such, a fluid relationship was developing between prison and community and as Hudson (2002, p. 255) argues, "control is the effect of a continuous process of inspection – to know as much as possible". This 'practical' after care support coincided with the prison rationalities as it further promoted the depoliticizing and individualizing of those in prison and making it increasingly difficult to contest penal discourse, while maintaining individuals within a certain social panoptic 'gaze'.

According to Rafter (1993) women from prison became the client group for the bourgeoning women in 'civil' society (Rafter, 1993), and in NSW a 'Ladies' sub-committee of the Prisoner's Aid Association was developed in 1901. The Ladies Committee sought to ease and facilitate the 'transition' of women from prison to community. This was considered to be achieved by offering themselves as role models and by providing a 'link' between prison and community. For instance, women from the committee would read to the women who were of 'good-behaviour' and could "help women to develop self-respect by providing clothing so the women could take pride in appearance and to offer advice, assistance, friendship, and resources" (Ladies Committee Minutes, 1923). Women from prison were considered as being more vulnerable to influences and in need of greater protection. Women were considered as needing to be rescued and reformed, saved as well as corrected. Efforts were thus focused on providing a gateway from prison to 'community' by not only finding women shelter, food, and employment, but also ensuring the moral ordering of women through dress, language and conduct. In the middle of the 20th century, the Ladies Committee became increasingly more concerned with the release of women into the 'care' of parents or husbands. The development of release schemes linked the women to social and family networks and perceived social obligations outside of the prison, while the coherence of after care with penal arrangements ensured women were dispersed in a consistent manner that could facilitate their retrieval at any time through the license system and 'conditional' release.

It was through after care that a notion of gradual release was popularized. Although such a scheme existed in early classification schemes in the Parramatta Factory, it was organized around the development, order, and sanitation of the colonies. With a shift in emphasis on prisoner 'reform' linked to the punishment of deviance, the prison served two seemingly contradicting forces -i.e., to punish and reform. It was to this end that release schemes and after care complemented and highlighted prison practice by alleviating the effects of the prison as an instrument of punishment as well as supporting a reformative ideal. Garland (1981) argues that what made the disciplinary logic of welfare such as after care possible at the turn of the 20th century was the penal system itself. It was the linking of various systems and networks of support with those supervisory and corrective measures associated with the prison and systems of punishment that made welfare not only possible, but considered necessary. These penal arrangements established entire penal-welfare complexes weaved in and out of the prison and the social at large.

Once constituted, this epistemologico-juridical matrix provides the basis and justification for the entire constellation of entities engaged in implementing the technology of punishment: the police, the magistracy, the prison system, the parole-patronage society, and so on. Other, presumably lesser forms of discourse, may act to reinforce and popularize the ubiquitous matrix (Nye, 1978, p. 500).

By establishing social networks, providing material arrangements, and maintaining consistency with the goals of punishment, a more fluid system of identification and social control of the penal population was sought, with the capacity to pull, draw, attract, or influence individuals in and out of its reach. Through the introduction of after care agencies as overseers in the lives of women outside of prison and by establishing a link between systems of punishment and the family, relationships, work, home life, leisure and other varying aspects of being, the penal apparatus became increasingly more ubiquitous in the lives of women. Women's 'correction' and 'treatment' continued to be tied to gender as opposed to their social and material needs independent of social and familial relationships.

In so doing, the harm and dislocation caused by prison practices could be both reasoned and addressed without tremendous state involvement or responsibility and yet maintain an administrative and regulatory hold on the lives of women. The central tenant behind after care was thus to ensure a certain well-being coupled with the reformation of the prisoner through similar penal mechanisms of oversight and support, without threatening or challenging prison practice and its limits. In maintaining after care as both apart from and embedded in prison discourse and penal practice, the individualizing characteristics of a notion of 'reform' are maintained and a depoliticized form of management is promoted. After care thus fulfills attempts to reinvest women into the social body in a way that will facilitate them in fulfilling 'normal' obligations and without much state responsibility to social and material commitments.

Today, given the emphasis on a popular punitiveness, there is a lack of material resources allocated to the social welfare needs of prisoners on release and given the even fewer numbers of women in the system, after care has a very limited role in providing the social welfare component while levels of supervision take priority. For instance, even when women's welfare is given consideration, it remains linked to punitive arrangements such as appending mandatory urinalysis testing with methadone treatment, and in NSW there currently exists only one women's 'transition' house and a Community Restorative Centre that accommodates the social welfare needs of both women and men. The NSW Department of Corrective Services Women's Action Plan sets out "to contextualize women's needs within the realities of their social, economic and vocational circumstances and women's specific patterns of learning and interaction with peers and authorities" (NSW Department of Corrective Services, Women's Action 2000-2003, p. 1). For women within the correctional continuum, administration and management thus turn to gender as the object and instrument of regulation and control. For instance, women are often seen to have 'different custodial challenges' such as higher rates of mental illness and more incidents of self-harm, and are often confined for non-violent often drug related 'offences' (O'Brien, 2001; Gelsthrope & Morris, 2002; Richie, 2004). Focus then turns to the 'character' of women as ill, abused, or weakened, and programs are developed to address this specific 'nature' of women in prison and upon release. McKorkel (2003) argues that even when women are introduced to 'punitive' regimes adopted for men, the involvement of the staff and administration in the lives of the women still revolves around perceived gendered differences. Calls are often made to give sanctions that reflect women's 'needs' and to revitalize community resources within gender-specific 'community support' models that address women's 'needs' (Morris, 2000, p. 46; O'Brien, 2001; Galbraith, 2004). Suggestions for 'gender-responsive' policies and approaches nonetheless often remain embedded within institutional thought that maintains a level of management and control in the women's lives. Stanko (1997) for example looks at how women must negotiate their safety from men's violence as an ongoing and embedded practice in their lives. That is, the knowledge and awareness that has been advanced in the field of women often makes them responsible for their gender specific treatment. Punishment and correction for women operates in a way that re-inscribes women into broader gender arrangements, while making use of such ordering to regulate and control women within a correctional continuum.

As we can see, in colonial Australia, prison release or 'community' schemes, similar to those promoted today, were developed prior to the prison establishment and afforded a very particular arrangement of control over the convict population. Although the penal management of women emerged well before the prison, release schemes have come to be understood as a continuum from prison. Framed as a necessary aspect of prison release, these practices further promote surveillance and a particular ordering of prisoners upon release. Institutionalized through legislated and mandated bodies of probation and parole, they became yet another specialized venue for ongoing 'reform'. Where it is often assumed that release schemes were developed in tandem with the prison to assist prisoners adapt and adjust to life outside, understood within its local and historical context, the prison in NSW initially emerged to accommodate the distribution of convicts and release schemes only recently became a part of a 'transitional' process in corrections. Furthermore, while the development of these prison release schemes and programs suggests a move for women prisoners towards 'mainstream society', the development of identification and classification schemes continue to segregate and reinforce certain gender divisions and understandings. As such, women from prison always remain, however tacitly, part of criminal and identification systems that facilitate detection and 'removal' and neglect a broader social, cultural and political relevance. This arrangement is particularly pervasive for those who lack material status, resources and support and are more reliant on the state for such necessities. Women from prison are thus localized within a unifying and consistent

'corrective' discourse that individualizes and depoliticizes their social and material worlds and maintains women within a corrective continuum where subsequent punishments, treatments, corrections, removals and, in some instances, eliminations are reasoned and supported.

Rather than search for any specific 'truths', we offer an account of and insight into the rules and strategies that shaped penal discourse and the organizing practices of women in the colonial establishment in NSW, Australia. In this way, our inquiry is rooted in the ways women from prison have been problematized and we therefore hope to avoid further problematizing women or imposing our own gendered discussion. Throughout the various spaces of penal thought and practice, discussion around difference, needs, identity, classification and the segregation and 'treatment' of various forms of 'abnormalities', 'incivilities' or 'irregularities' are ongoing and often central to the treatment of women in a penal domain. Despite the lack of consideration given to women within the more public realms of social, economic and political government, women were and continue to be maintained and managed in very deliberate and organized ways and negotiated in relation to and throughout various networks of life and labour. In penal discourse, gender becomes a category of thought embedded in formations of discipline, control, and management and the web of law, administration, and regulation can reach into the lives of the women on the outside, as much as they extend or disperse from the prison without a challenge to this 'corrective' legacy or concern for broader social disadvantages.

ENDNOTES

- ¹ The use of semi-parenthesis is indicative of the language used by the institutions and experts involved in the field of 'corrective services' and serves to highlight the language and discourse within this domain.
- ² The word 'community', an often vague and contentious concept, is understood here to represent the geographic, social, and cultural space within what Foucault (1977) referred to as the carceral network where specialized forms of knowledge and mechanisms of power are used to render the 'criminal' as knowable and manageable.
- ³ The terms penal, punitive and corrections are used interchangeably; these terms all represent a certain frame of knowledge that structures thought and action in very specific and definitive ways around notions of security, safety, individual good, and public well-being.

- ⁴ Women landed in Australia with the first fleet in 1788. There were 24,960 women in all transported, which makes up about 15% of the total of transported convicts.
- ⁵ Each butt gives the following information: prisoner's number, name, ship arrived on, master of ship, year of arrival, native place, trade or calling, offence, place of trial, date of trial, sentence, year of birth, complexion, height, colour of hair, colour of eyes, general remarks, the district prisoner is allocated to, the Bench who recommended her, and the date of issue of ticket. There are also notes of change of district, conditional pardons, etc. on most of the butts (NSW State Archives).
- ⁶ Tickets were occasionally granted to women for private land ownership or public work, but were more commonly allocated for women on assignment who were welcomed by their masters or were used in order to promote marriage.
- ⁷ The transportation of convicts to Australia was ended in 1868 (Daniels, 1998).
- ⁸ The Parramatta Female Factory or the Female Penitentiary was designed to accommodate 3,000 women. Prior to this, women were housed in a separate section of Darlinghurst gaol.
- ⁹ As Dean (1994) highlights, 'policing' here should not be understood today as those currently organized forces that uphold and maintain 'law and order' and respond to 'crime', but rather as the *monitoring* of particular administrative, bureaucratic and legal orders.

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